

**REPORT - PLANNING COMMISSION MEETING
November 7, 2002**

Project Name and Number: BELVOIR SPRINGS (PLN2003-00040)

Applicant: Jim & Susie Richardson

Proposal: To consider a Conditional Use Permit to legalize an existing non-conforming two bedroom single family residence and demolition of a building. This project is categorically exempt from CEQA review under Section 15301 Existing Facilities.

Recommended Action: Approve based on findings and subject to conditions.

Location: 36990 Mission Boulevard

Assessor Parcel Number(s): 507 009501303, 507 009501403

Area: Approximately 21 acres

Owner: Jim & Susie Richardson

Consultant(s): Sandy Sloan, Attorney

Environmental Review: The proposed project is categorically exempt under CEQA per Section 15301 Existing Facilities.

Existing General Plan: Low-Density Residential (5 - 7 dwelling units per acre); Primary Historic Resource; Hill Face Open Space (in some areas)

Existing Zoning: R-1-6 (H)(R) Single Family Residence (Historical Overlay) (Development Reserve Overlay) District; R-1-6 (H-I) (R) Single Family Residence (Hillside Combining) (Development Reserve Overlay) District; Toe of the Hill; O-S (R) Open Space (Development Reserve Overlay) District; and, O-S (Q)(R) Open Space (Quarry Overlay) (Development Reserve Overlay) District.

Existing Land Use: Belvoir Springs Hotel (rented rooms), rental cottages and terraced garden.

Public Hearing Notice: Public hearing notification is applicable. A total of 70 notices were mailed to owners and occupants of property within 300 feet of the project site: Nichols Court, Nichols Avenue, Blaisdell Way, Blaisdell Terrace, Grapevine Terrace and Mission Boulevard. The notices to owners and occupants were mailed on October 28, 2002. A Public Hearing Notice was delivered to The Argus on October 23, 2002 to be published by October 28, 2002.

Background and Previous Actions: On October 3, 2002 the Historical Architectural Review Board voted (3-1-0) to recommend to the Planning Commission that the demolition of the "Tree House" or "Building F" (as identified in Exhibit "A") and the legalization of the non-conforming single-family residence do not adversely affect the historical integrity of the Belvoir Springs Historic property.

Project Description: The property area, which encompasses approximately 21 acres, is generally located on the east side of Mission Boulevard, opposite the Sullivan Underpass, in the Niles Planning area. The property and the Belvoir Hotel are designated as a Primary Historic Resource and the project site is within the Niles Historical Overlay District. Buildings on the property include the several residential cottages and sheds, some of which were constructed without building permits by a previous owner.

The scope of the proposal is to legalize an existing non-conforming two bedroom single-family residence through a Conditional Use Permit. The single-family residence, (known as Building D in the exhibits), is a reconstructed, single-family residence and is the fourth "cottage" located on the north side of the property. The original cottage was built in 1915 (based on County Assessment Records) and the original size of the building was 793 square feet. The previous owner reconstructed the cottage and built an addition of approximately 553 SF in 1991 without the benefit of permits. The size of the existing Building D is 1346 SF. This residence was occupied by a family until shortly before the current owners purchased the property in April 1994. The applicants intend to move into the residence so that they can effectively manage the property.

Staff supports the legalization of the non-conforming single-family residence since the applicant is proposing to eliminate the square footage equal to the unpermitted expansion of Building "D" through the demolition of the dilapidated non-contributing building known as the Tree House or Building F. The applicant is not expanding the non-conforming use, rather legalizing the original residential use of the building. This 628 SF non-conforming pre-existing building is in severe disrepair due to age, lack of maintenance, and dilapidation. Based on a recent site visit, it appears there is no existing foundation while the floors, walls and roof are in the midst of collapsing. The building cannot be viewed from the entrance of the property as it is hidden by a multitude of bushes and vines. The Tree House is structurally damaged and would be prohibitively expensive to rehabilitate, especially given the lack of historic value. On November 18, 1993, the Tree House was declared a "dangerous building" by the Chief Building Official. As stated in the "statement of defects" the building was declared unsafe and a public nuisance. The owner was required to secure and post the building against entry and habitation.

Staff's consultants have evaluated the site as part of the Primary Record and have determined that the Tree House is not a contributory structure of historical significance. In staff's opinion, and as recommended by HARB, the removal of the Tree House, would not be intrusive and therefore would not detract from the overall historic character of the property. The applicant is proposing to salvage building materials and fixtures for reuse.

This CUP applies to the legalization of the single-family residence known as Building D only. This CUP in no way legalizes the non-conforming structures on site – namely, the Belvoir Hotel, the two cottages and fourplex on the property. It should be noted that the prior owner of this property tore down a barn and built a fourplex in its place without the benefit of building permits. This fourplex is not part of this application nor is it permitted for any use by the City of Fremont. The intent of this proposal is to be able to occupy the single-family residence after meeting the Building Code and Fire protection requirements.

Project Analysis:

- **General Plan Conformance:** The existing General Plan land use designation for the project site is Low density residential (5-7 units per acre), and Hill Face Open Space (in some areas). The Belvoir Hotel and property is listed as a Primary Historic Resource. The City Engineer has verified that the Toe of the Hill is located higher than the single-family residence (Building D) and the Tree House. The Hill Face Open Space designation applies to all areas between the Toe of the Hill and the Ridgeline and therefore, is not applicable to this specific project area. The proposed project is consistent with the existing General Plan land use designation for the project site because low density residential uses are allowed. The following General Plan Goals, Objectives and Policies are applicable to the proposed project:

Fundamental Goal 2: An harmonious blend of the natural and built environments.

Policy LU 7.3: It is the intent of the City to require, where feasible, the preservation of Primary Historic Resources, as identified in the General Plan. It is the policy of the City of Fremont to protect, enhance, perpetuate and use structures, sites and areas which are reminders of the past era, event and persons important in local, State and National history.

Analysis: *The demolition of the Tree House or Building F and the legalization of the non-conforming single-family residence do not adversely affect the historical integrity of the Belvoir Springs Historic property. As stated in the report, the Tree House is structurally damaged and would be prohibitively expensive to rehabilitate, especially given the lack of historic value. The legalization of the single-family residence will reestablish the historic use of the building.*

Fundamental Goal 7: An open space frame that includes the Hillface, Bay, wetlands, and gateways.

Goal LU 6: Protection of the sensitive Hill Face and uses in the remainder of the Hill Area consistent with its character and environmental constraints.

Analysis: *Although some portion of the Belvoir Springs property is located in Hill Face Open Space area, the location of the Tree House and Building D is below the Toe of the Hill and therefore is not part of the Hill Face Open Space portion of the property.*

Policy LU 6.4: General plan designation and densities for the portions of the Hill Area outside the Hill Face and Ridgeline are redesignated to "Hill Open Space".

Policy LU 6.2: For the Hill area generally compatible uses are agriculture, recreation and low density residential.

Zoning Regulations: Although the structure was used as a single-family residence, the use was discontinued for a period of time and lost its status as a legal non-conforming use. The applicant is seeking approval of this Conditional Use Permit to legalize the single-family residence.

Prior to occupying the residence, the structure will have to be assessed by Building staff to determine code compliance. The applicant will have to prepare "as built" plans for the single-family residence and submit them to the Development Organization for plan check. Any deficiencies would be determined at that point, and building inspectors would field check the existing construction.

The applicable zoning for the project area is R-1-6 (H-I). R-1-6 allows single-family and duplex dwellings with rooming and boarding for a maximum of 2 persons. Single-family dwellings are a permitted use in the (H-I) Hillside Combining District and where residential development is not restricted by constraints listed in Section 8-21715.1 of the zoning ordinance. Section 8-12715.1 (Land Constraints) of the zoning ordinance identifies the following as constraints to development: soil instability or adverse ground water conditions; lands subject to landslide or in the path of landslides; lands with slopes in excess of 30 percent; lands accessible only through constrained land; lands containing natural areas; lands with identified mineral resources; lands with moderate or severe ground shaking or liquefaction potential; areas identified as wetlands; lands accessible via roadways not capable of meeting city standards because of natural or man-made barriers. **The single-family residence is not located on constrained land and there is no new development proposed for this site.** The project complies with all requirements and codes applicable to a property under the zoning designations.

- **Parking:** The applicant is not required to provide additional parking for the non-conforming single-family residence since there is no new units proposed as part of this Conditional Use Permit. Currently, there are 35 parking spaces for the use of the residents of the Belvoir Springs Hotel, two cottages and the non-conforming single-family residence.
- **Open Space/Landscaping:** Rather than building a new structure on the site, the applicant is proposing to make additional landscape improvements in the future. Although there are no specific landscape improvements proposed at this time, the applicant has stated that the landscaping found near the Tree House will be preserved and consequently will not substantially impact the historic relationship of the property and its setting. Staff has added a

condition of approval that specifies the required action to landscape the site of demolition prior to the issuance of a Certificate of Occupancy for the single family residence Building "D".

Design Analysis:

Architecture: The single family dwelling structure resembles the two existing wood framed cottages with gable roofs which face the parking lot and garden across from the hotel. Modern finishes such as a composition roof and weatherboard siding were applied to the original two cottages during the 1990's as well as the reconstructed single family dwelling without permits by the previous owner. The blue trim and gray walls are identical colors for the three cottages. The applicant has no immediate plans for modifying the exterior of the single family residence. The applicant has agreed to return to HARB if future changes do not qualify for exemption from HARB review. The single-family residence cannot be directly viewed from the entrance of the property due to a heavily landscaped terraced garden showcasing an abundance of existing mature trees and shrubs. Although the finishes of the remaining cottages are similar (not including the Tree House), it is clear the single family residence is a modern addition to the property. The intent of this proposal is to be able to occupy the residence in the near future after meeting the Building Code and Fire protection requirements.

Environmental Impact Assessment: The proposed project is categorically exempt under CEQA per Section 15301 Existing Facilities.

Urban Runoff Clean Water Program: The Federal Clean Water Act of 1972 and Water Quality Act (1987) require localities throughout the nation to obtain a National Pollutant Discharge Elimination System permit (NPDES) in order to discharge storm water into public waterways such as creeks, rivers, channels and bays. The applicant will comply with the City's Urban Runoff Clean Water Program in accordance with the NPDES requirements issued by the State's Water Quality Control Board.

Waste Management: This project involves demolition of a building. And, it shall be subject to the provisions of the California Integrated Waste Management Act of 1989 (AB939). The Act requires that 50% of the waste generated in the City of Fremont be diverted from landfill sites by the year 2000. Additionally, the project is subject to the City's Source Reduction and Recycling Element (1992), an Integrated Waste Management Ordinance (1995), and a Commercial/Industrial Recycling Plan (1997). These documents require that any new project for which a building permit application is submitted to include adequate, accessible, and convenient areas for collecting and loading trash and recyclable materials. Any trash/recycling enclosure for the project shall be designed in a manner to be architecturally compatible with nearby structures and with the existing topography and vegetation in accordance with such standards.

Response from Agencies and Organizations: No responses from agencies or organizations were provided during the preparation of this report.

Enclosures: Exhibit "A" (Site Plan, Floor Plans, and Elevations)
Exhibit "B" (Conditions of Approval)
Informational – Design Concept Statement
Informational – Alameda County Tax Records & Site Plan

Exhibits: Exhibit "C" – Photo Board

RECOMMENDATION:

1. Hold public hearing.
2. Find PLN 2003-00040 is in conformance with the relevant provisions contained in the City's existing General Plan. These provisions include the designations, goals and policies set forth in the General Plan's Land Use Chapters as enumerated within the staff report.
3. Approve PLN 2003-00040, as shown on Exhibit "A", subject to findings and conditions on Exhibit "B".

Exhibit "B"
36990 Mission Boulevard

Belvoir Springs– Conditional Use Permit

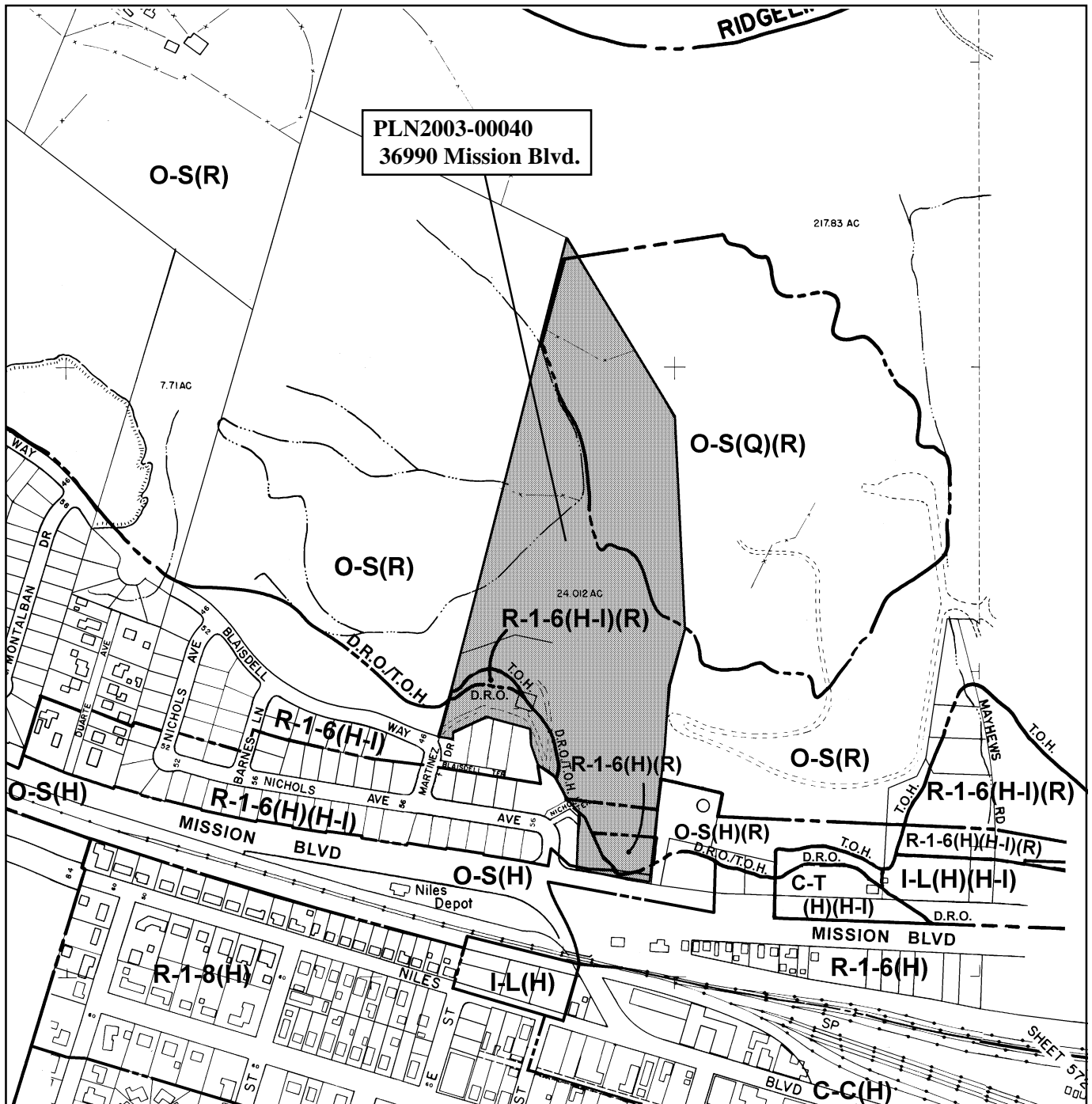
FINDINGS:

1. The use is consistent with the General Plan designation for the site; since the land use, a single-family residence is permitted on property designated Low Density Residential on the General Plan.
2. The site is suitable and adequate for the proposed use because the single-family residence conforms to ordinance requirements for the zoning district and is subject to conditions of approval that will ensure the use does not have an adverse impact on the site or surroundings.
3. The proposed use and design would not have a substantial adverse effect on vehicular (including bicycle) or pedestrian circulation or safety, on transit accessibility, on the planned level of service of the street system or on other public facilities or services because all roadway improvements adjacent to the project site have been completed or will be completed with this project. Sufficient parking is provided, points of ingress-egress are properly located, and adequate fire fighting equipment access and facilities are available.
4. The estimated economic effect of the proposed use on nearby uses is not adverse because the single-family residence will have no apparent adverse effect to date, and none foreseen.
5. The proposed use would not be detrimental to the general welfare of persons residing in the immediate vicinity, the neighborhood, or the community at large because the theatre use is properly regulated with adequate parking, and would not create nuisances or degrade the environment and is designed to limit impacts on surrounding residents.
6. The design of the project is compatible with existing and proposed development in the district and its surroundings because the proposed project is designed to be compatible with nearby commercial, institutional and residential uses.
7. All public improvements or facilities required as a part of this approval are directly attributable to the proposed development, and are required for reasons related to public health, safety and welfare.
8. The proposed project described in the application will not endanger public sewers, storm drains, watercourses, streets, street improvements, or other property; will not interfere with existing drainage courses; and will not result in debris being deposited on any public way. The adequacy of the existing sewer, water and drainage facilities proposed for the project will be reviewed during the building permit stage. Prior to occupying the residence, the structure will have to be assessed by Building staff to determine code compliance.

CONDITIONS:

1. Approval of PLN2003-00040 shall conform to Exhibit "A" (Site Plan) and all conditions of approval set forth herein.
2. Minor modifications to the Conditions of Approval within this Conditional Use Permit may be allowed, subject to the approval of the Assistant City Manager, if such modifications are in keeping with the intent of the original approval.
3. If the Assistant City Manager finds evidence that conditions of approval have not been fulfilled or that the use or uses has or have resulted in a substantial adverse effect on the health, and/or general welfare of users of adjacent or proximate property, or have a substantial adverse impact on public facilities or services, the Assistant City Manager may refer the use permit to the Planning Commission for review. If, upon such review, the Commission finds that any of the results above have occurred, the Commission may modify or revoke the use permit.
4. The applicant shall submit an application for a demolition permit for the Tree House for staff review to ensure compliance with this approval and all City codes and policies.
5. The applicant shall salvage historic materials for reuse in preserving other local historic structures or for recycling purposes prior to obtaining demolition permits.
6. The applicant shall provide a landscape plan for staff review addressing the area of demolition. Landscaping of the area of demolition is to occur prior to the issuance of a Certificate of Occupancy for the single family residence (Building D).
7. The applicant will have to prepare as-built plans for single-family residence and submit them to the Development Organization for plan check as part of the DO process. Prior to the issuance of a Certificate of Occupancy, the single family residence, Building D, will have to be assessed by the Building and Fire Department staff to determine code compliance.
8. Erosion and sediment control plans shall be submitted with the demolition permit application for Building F. Erosion control shall be in place and operational for all construction activities between October 1 and April 15. Erosion control measures shall remain in place until permanent landscaping is installed.
9. The applicant shall install an automatic fire sprinkler system in the single-family residence for fire protection purposes.
10. The applicant shall install smoke detectors in all sleeping rooms and one common area.
11. Plan, specifications, equipment lists and calculations for the required sprinkler system must be submitted to the Fremont Fire Department Authority and Building Department for review and approval prior to installation during the DO process.
12. The applicant shall comply with Fremont code requirements for installation of fire retardant roof coverings.
13. This project must meet all Hazardous Fire Area requirements (construction, roof material etc.)
14. A preservation plan is required during the DO process delineating a fencing system around the existing trees to remain. The applicant has indicated that all trees will be preserved from the site as part of the demolition process.

INFORMATIONAL



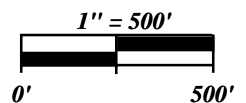
Existing Zoning

Project Number: PLN2003-00040 (CUP)

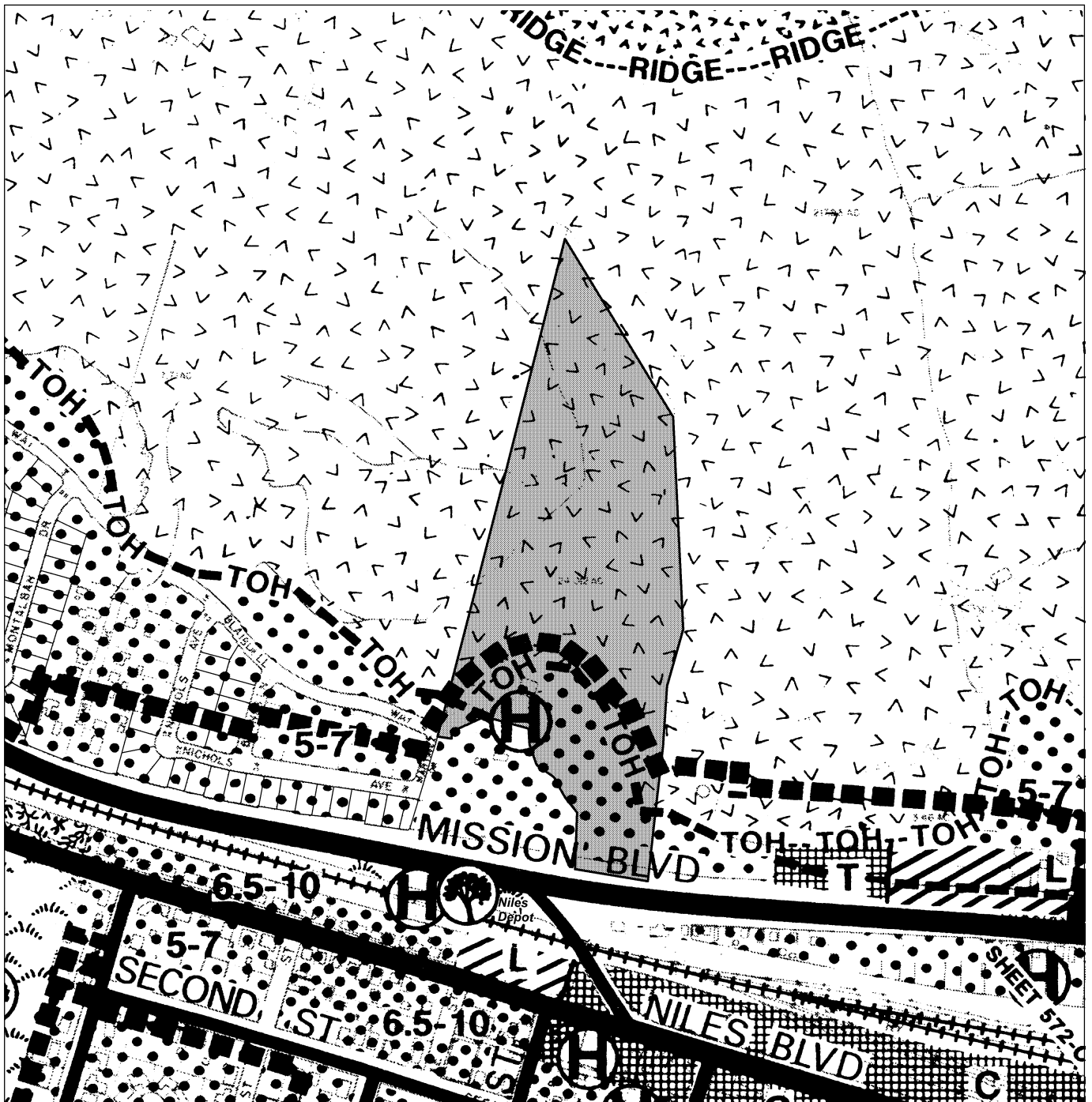
Project Name: Belvoir Springs

Project Description: To consider a Conditional Use Permit to legalize an existing non-conforming two bedroom single family residence and demolition of a building.

Note: Prior arrangements for access are not required for this site.



INFORMATIONAL



Existing General Plan

Project Number: PLN2003-00040 (CUP)
Project Name: Belvoir Springs
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